



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
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February 20, 2025

Aaron Fukuda, General Manager
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**Subject: Main Intake Canal Siphons Project (Project)
Initial Study / Mitigated Negative Declaration (IS/MND)
SCH: 2025010509**

Dear Aaron Fukuda:

The California Department of Fish and Wildlife (CDFW) received an IS/MND from Tulare Irrigation District for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. While the comment period may have ended, CDFW respectfully requests that Tulare Irrigation District still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA,

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines (Cal. Code Regs., tit. 14, Chapter 3, § 15380), CDFW recommends it be fully considered in the environmental analysis for the Project.

Water Pollution: Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including non-native species. It is possible that without mitigation measures this Project could result in pollution of Waters of the State from storm water runoff or construction-related erosion. Potential impacts to the wildlife resources that utilize surface water in the Project area include the following: increased sediment input from road; toxic runoff associated with Project-related activities and implementation; and/or impairment of wildlife movement. The Regional Water Quality Control Board and United States Army Corps of Engineers also have jurisdiction regarding discharge and pollution to Waters of the State.

PROJECT DESCRIPTION SUMMARY

Proponent: Tulare Irrigation District

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Objective: The Project would construct and install two reinforced concrete pipes or box siphons to update the current infrastructure connecting the main intake canal into district boundaries. The new structures would increase the maximum capacity of the main intake to approximately 1,100 cubic feet per second. This is to be a multiple phase project that includes clearing and grubbing of the site, excavation of the sending and receiving pits, installation of a pipe beneath the river, installation of head walls and wing walls on the upstream and downstream sides, and reconditioning the water flow into the new siphons and main intake canal. The existing box culvert siphons will remain in place once the new construction is complete, and may be used during high flows. The Project would result in approximately 6.3 acres of total disturbance which includes temporary impacts as a result of staging and stockpiling and temporary vegetation disturbance.

Location: The Project is located on two sites in the eastern portion of Tulare County, along the St. Johns River and the Kaweah River approximately 53-miles southeast of Fresno and 56 miles northwest of Bakersfield within Tulare Irrigation District. The Project sites are located on Assessor's Parcel Numbers 158-040-019 and 158-040-004. The approximate centroid of St. Johns River Project site is 36° 21' 33.31" North, 119°10'26.22" West, and the approximate centroid of the Kaweah River Project site is 36°21'10.03" North, 119°10'47.28" West.

Timeframe: Construction will occur over approximately 12 months total, 6 months per siphon, between July 2025 through December 2026 (one siphon a year). Generally, construction will occur between the hours of 7 a.m. and 5 p.m., Monday through Friday, excluding holidays.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Tulare Irrigation District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

Currently, the IS/MND acknowledges that the Project site is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of these measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored black bird (*Agelaius tricolor*); State candidate species western burrowing owl (*Athene cunicularia hypugaea*) and Crotch's bumble bee (*Bombus crotchii*); State species of special concern and federally proposed threatened

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western spadefoot (*Spea hammondi*), and State species of special concern Northern California legless lizard (*Anniella pulchra*), pallid bat (*Antrozous pallidus*), and western mastiff bat (*Eumops perotis Californicus*).

CDFW is also concerned regarding potential impacts for the following special-status plant species with potential to occupy the Project area: the California rare plant rank (CRPR) 1B.2 Earlimart orache (*Atriplex cordulata* var. *erecticaulis*), Sanford's arrowhead (*Sagittaria sanfordii*), spiny-sepaled button-celery (*Eryngium spinosepalum*), Subtle orache (*Atriplex subtilis*), and CRPR 2B.1 California satintail (*Imperata brevifolia*). Based on a review of the Project description, a review of CNDDDB records, and the surrounding habitat, special-status species could potentially be impacted by Project activities.

San Joaquin kit fox (SJKF)

The IS/MND states that the occurrence of SJKF on the project site is possible. The IS/MND Chapter 4.4.4, Mitigation Measures BIO-7 through 9, address surveys, buffers and minimization measures to be taken for SJKF. Mitigation Measure BIO-7 states SJKF surveys will be conducted within 200 feet of proposed work areas, while Mitigation Measure BIO-8 includes establishing a 500-foot buffer around any natal dens with pups except for any portions within the buffer zone that is already fully developed. If SJKF surveys are only conducted within 200 feet of proposed work, it is unclear how occupied dens within 500 feet would be detected. Further, it is unclear what areas of the Project are considered "fully developed," and how Project activities within developed areas would not impact denning SJKF if present. Tulare County supports areas of high and medium suitability SJKF habitat (Cypher et al. 2013). The Project area is bordered by highly suitable habitat in an area that is otherwise under intensive agriculture.

SJKF may be attracted to the Project area due to the type and level of ground-disturbing activities and the loose, friable soil resulting from intensive ground disturbance. In addition to more natural habitats, SJKF will forage in fallow and agricultural fields and utilize streams and canals as dispersal corridors. As a result, there is potential for SJKF to occupy all suitable habitat within the Project boundary and surrounding area. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with construction include habitat loss, den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals. To evaluate potential impacts to SJKF, CDFW recommends conducting the following evaluation and including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 1: SJKF Surveys and Minimization

CDFW recommends assessing presence/absence of SJKF by having qualified biologists conduct surveys of Project areas and a 500-foot buffer of Project areas to

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detect SJKF and their sign. CDFW also recommends following the United States Fish and Wildlife Service (USFWS) (2011) “Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance” during Project implementation.

Recommended Mitigation Measure 2: SJKF Take Authorization

SJKF activity or detection warrants consultation with CDFW to discuss how to avoid take or, if avoidance is not feasible, take authorization through acquisition of an State Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b) would be necessary to comply with CESA. Alternatively, species presence may be assumed and an ITP obtained prior to Project implementation.

Swainson’s Hawk (SWHA)

The IS/MND states the presence of SWHA as possible. Impacts to nesting Swainson’s hawks can occur through disturbance related to Project activities. The IS/MND acknowledges that suitable nesting habitat occurs within the Project area and Mitigation Measure BIO-11 requires a survey for nesting birds, including SWHA, within five (5) days prior to construction during the nesting season. Mitigation Measure BIO-12 requires that should any nests be detected during surveys that avoidance buffers will be put into place until a qualified biologist has determined that the young have fledged. However, specific avoidance buffer distances are not included in the IS/MND. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts associated with Project activities include loss of foraging and/or nesting habitat, nest abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young. To evaluate potential impacts to SWHA, CDFW recommends conducting the following evaluation and including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 3: SWHA Surveys and Avoidance Buffers

To reduce potential Project-related impacts to SWHA, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) during the nesting season of or prior to Project initiation, within the Project area and a ½-mile no-disturbance buffer around the Project area. In addition, if Project activities will take place during the species nesting season (i.e., March 1 through September 15), CDFW recommends that additional preconstruction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction.

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Recommended Mitigation Measure 4: SWHA Take Authorization

If a ½-mile buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take of SWHA. If avoidance is not feasible, take authorization through the issuance of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), prior to ground-disturbing activities is necessary to comply with CESA.

Tricolored Black Birds (TRBL)

The IS/MND states the presence of TRBL as possible. The IS/MND acknowledges that suitable nesting habitat occurs within the Project area and Mitigation Measure BIO-11 requires surveys for nesting birds within five (5) days prior to construction during the nesting season, and that TRBL specific surveys will be conducted within 300-feet of the St. Johns River site. If nests are detected during surveys, Mitigation Measure BIO-12 requires avoidance buffers be implemented until a qualified biologist has determined that the young have fledged. However, specific avoidance buffer distances are not included in the IS/MND. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014), and approximately 86% of the global population is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). For these reasons, disturbance to nesting colonies can cause entire nest colony site abandonment and loss of all unfledged nests (Meese et al. 2014). Without appropriate avoidance and minimization measures for TRBL, potential significant impacts include nesting habitat loss, nest and/or colony abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young. To evaluate potential impacts to TRBL, CDFW recommends conducting the following evaluation and including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 5: TRBL Surveys

CDFW recommends that Project activities be timed to avoid the avian nesting season of February 1 through September 15. If Project activity that could disrupt nesting must take place during that time, CDFW recommends that a qualified biologist conduct surveys for nesting TRBL no more than 10 days prior to the start of implementation to evaluate presence or absence of TRBL nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.

Recommended Mitigation Measure 6: TRBL Colony Avoidance:

If an active TRBL nesting colony is found during surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer, in accordance with CDFW's (2015) "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015," until the breeding season has ended or until a qualified biologist has determined that nesting has ceased and the young have fledged and are no longer reliant upon the colony or parental care.

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Recommended Mitigation Measure 7: TRBL Take Authorization

In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to how to implement the Project and avoid take. If take avoidance is not feasible, take authorization through acquisition of an ITP pursuant to Fish and Game Code section 2081, subdivision (b), prior to any Project activities is necessary to comply with CESA.

Western Burrowing Owl (BUOW)

The California Fish and Game Commission approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The IS/MND states the presence of BUOW as unlikely, due to the site and surrounding area being regularly maintained for irrigation and agricultural purposes. The Project is within known geographic range of BUOW (CDFW 2025) and the IS/MND indicates that the project area contains suitable habitat for the species, however, the IS/MND does not include a description of potential impacts to this species. The IS/MND includes mitigation measures for raptor surveys (BIO-11) however, BUOW specific mitigation measures are not included. As BUOW is now a candidate under CESA, CDFW recommends that the Project's mitigation measures be updated to reflect the species updated status and recommends the following measures be incorporated into the Project to avoid unauthorized take.

Recommended Mitigation Measure 8: BUOW Surveys Prior to Construction

CDFW recommends that surveys, following CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) be conducted within areas of suitable habitat the survey season immediately prior to construction.

Recommended Mitigation Measure 9: BUOW Buffers

If BUOW burrows known to be currently or previously occupied by BUOW are found, either during surveys or Project activities, CDFW recommends that no-disturbance buffers, as outlined in the CDFW "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 10: BUOW Take Authorization

If BUOW or burrows known to be currently or previously occupied by BUOW are found, either during surveys or Project activities, consultation with CDFW is

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warranted to discuss how to implement the Project and avoid take. If avoidance is not feasible, acquisition of an ITP pursuant to Fish and Game Code section 2081 subdivision (b), prior to any ground disturbing activities, would be necessary in order to comply with CESA.

Crotch's Bumble Bee (CBB)

The IS/MND states that the presence of CBB is unlikely and that the habitat present at the Project site is unsuitable for CBB. The Project site is within the range of CBB, and while dispersal and foraging distances can vary, bumble bee species can travel several miles to forage (CDFW 2023a, CDFW 2023b). Based on the Project location and presence of small mammal burrows, CDFW disagrees that there isn't suitable habitat for CBB within the Project area. Suitable CBB habitat includes areas of grasslands and upland scrub that contain requisite habitat elements, such as small mammal burrows. CBB primarily nest in late February through late October underground in abandoned small mammal burrows but may also nest under perennial bunch grasses or thatched annual grasses, underneath brush piles, in old bird nests, and in dead trees or hollow logs (Williams et al. 2014, Hatfield et al. 2015). Overwintering sites utilized by CBB mated queens include soft, disturbed soil (Goulson 2010) or leaf litter or other debris (Williams et al. 2014). Therefore, ground disturbance and vegetation removal associated with Project implementation has the potential to significantly impact local CBB populations. As such, to evaluate potential impacts to CBB, CDFW recommends conducting the following evaluation and including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 11: CBB Surveys Prior to Construction

CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the "Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species" (CDFW 2023b).

Recommended Mitigation Measure 12: CBB Avoidance Buffer

If CBB is detected, or surveys cannot be completed, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid unauthorized take and potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 13: CBB Take Authorization

If CBB is identified during surveys, consultation with CDFW is warranted to determine if the Project can avoid take, and if avoidance is not feasible, to acquire

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an ITP prior to any ground disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b).

Western Spadefoot (WESP)

The IS/MND states that the presence of WESP is unlikely due to the lack of pond habitat within the site and surrounding area. Western spadefoot inhabit grassland habitats, breed in seasonal wetlands, and seek refuge in upland habitat where they occupy burrows outside of the breeding season (Thomson et al. 2016). Some populations persist for a few years in orchard or vineyard habitats. These habitat features are present within the Project vicinity. Western spadefoot are known to occur in the Project area (CDFW 2025) and suitable habitat and refugia occur.

Recommended Mitigation Measure 14: Western Spadefoot Surveys and Avoidance

CDFW recommends that a qualified biologist conduct focused surveys for Western spadefoot and their requisite habitat features. If any individuals are detected, CDFW recommends that a 50-foot no-disturbance buffer is implemented around the entrances of any occupied burrows or other habitat. Alternatively, a qualified biologist with appropriate authorization can move them out of harm's way and to a suitable location and relocate them at least 50 feet away from the construction area.

Northern California legless lizard (NLL)

The IS/MND states that the presence of NLL is possible, therefore Project-related activities have the potential to impact Northern California legless lizard. CDFW recommends that the IS/MND includes an impact analysis on NLL with the potential to occur in the Project area. Without appropriate avoidance and minimization measures for the species mentioned above, potential significant impacts associated with the Project's construction include inadvertent entrapment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individual NLL. Habitat loss resulting from development is among the primary threats to special-status species (Thomson et al. 2016). As a result, ground disturbance resulting from development of the Project has the potential to impact habitat that supports the NLL, which may result in significant impacts to local populations of the species. To evaluate potential impacts to NLL, CDFW recommends conducting the following evaluation and including the following mitigation measure in the IS/MND.

Recommended Mitigation Measure 15: NLL Surveys and Avoidance

CDFW recommends that a qualified biologist conduct a habitat assessment to determine if individual project areas or their immediate vicinity contain habitat suitable to support NLL. If suitable habitat is present, CDFW recommends that a qualified biologist conduct pre-construction surveys to search for NLL. If any NLL

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individuals are found avoidance whenever possible is encouraged by establishing a 50-foot no-disturbance buffer around the occupied habitat. Alternatively, a qualified biologist with appropriate authorization can move them out of harm's way and to a suitable location at least 50 feet away from the construction area.

Special-Status Bat Species

Western mastiff bat and pallid bat are known to roost in buildings, caves, tunnels, cliffs, crevices, and trees (CDFW 2021, Lewis 1994). Project activities have the potential to affect habitat upon which special-status bat species depend for successful breeding and have the potential to impact individuals and local populations. Without appropriate avoidance and minimization measures, potential significant impacts resulting from ground- and vegetation-disturbing activities associated with Project activities include habitat loss, inadvertent entrapment, roost abandonment, reduced reproductive success, reduction in health and vigor of young, and direct mortality. To evaluate potential impacts to special-status bats, CDFW recommends conducting the following evaluation and including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 16: Bat Roost Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation to determine if the Project area or its immediate vicinity contains suitable roosting habitat for special-status bat species.

Recommended Mitigation Measure 17: Bat Roost Surveys

If suitable habitat is present, CDFW recommends assessing presence of special-status bat roosts by conducting surveys during the appropriate seasonal period of bat activity. CDFW recommends methods such as through evening emergence surveys or bat detectors to determine whether bats are present.

Recommended Mitigation Measure 18: Bat Roost Disturbance Minimization and Avoidance

If bats are present, CDFW recommends that a 100-foot no-disturbance buffer be placed around the roost and that a qualified biologist who is experienced with bats monitor the roost for signs of disturbance to bats from Project activity. If a bat roost is identified and work is planned to occur during the breeding season, CDFW recommends that no disturbance to maternity roosts occurs and that CDFW be consulted to determine measures to prevent breeding disruption or failure.

Special-Status Plants

The IS/MND indicates that special-status plants have the potential to occur in the project area, and Mitigation Measures BIO-15 through 17 address conducting protocol level surveys, buffers, and consultation measures for special-status plants. Mitigation

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Measure BIO-16 includes establishing avoidance buffers to not disturb the plants or root system, however, proposed buffer sizes are not included, and it is unclear if buffers would be of sufficient size to protect special-status plants and their habitats. Without appropriate avoidance and minimization measures for special-status plants, potential significant impacts associated with subsequent construction include loss of habitat, loss or reduction of productivity, and direct mortality. CDFW recommends including the following mitigation measures in the IS/MND.

Recommended Mitigation Measure 19: Special-Status Plant Avoidance

CDFW recommends that special-status plant species be avoided whenever possible by delineating and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW may be warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 20: Listed Plant Species Take Authorization

If a CESA-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take, and if avoidance is not feasible, to acquire an ITP prior to any ground disturbing activities, pursuant to Fish and Game Code section 2081, subdivision (b).

Editorial Comments and/or Suggestions

CNDDDB Positive Submission of Data: Please note that the California Natural Diversity Database (CNDDDB) is populated by and records voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified wildlife biologist/botanist during the appropriate survey period(s) and using the appropriate protocol survey methodology are warranted in order to determine whether or not any special-status species are present at or near the Project area.

Lake and Streambed Alteration: The Project includes activities in the bed, bank, and channel of the St. Johns River and the Kaweah River and these activities are subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or

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obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

Nesting birds: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological

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reason to do so, such as when the Project area would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

Endangered Species Act Consultation: CDFW recommends consultation with the USFWS prior to Project activity, due to potential impacts to federally listed species. Take under the Endangered Species Act (ESA) is more stringently defined than under CESA; take under the ESA may also include significant habitat modification or degradation that could result in death or injury to a listed species, by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with ESA is advised well in advance of Project implementation.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, could have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).


CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist Tulare Irrigation District in identifying and mitigating Project impacts on biological resources. A Mitigation and Monitoring Program (MMRP) (Attachment 1) is included below to assist Tulare Irrigation District with incorporating the recommended mitigation measures provided above. Questions regarding this letter or further coordination should be directed to

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Jackson Powell, Environmental Scientist at (559) 899-9758,
Jackson.Powell@wildlife.ca.gov.

Sincerely,

DocuSigned by:


FA83F09FE08945A...
Julie A. Vance
Regional Manager

Ec: State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

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REFERENCES

- California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game. March 7, 2012.
- California Department of Fish and Wildlife (CDFW). 2015. Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015. March 19, 2015.
- CDFW. 2021. California Wildlife Habitat Relationship System, Version 10.1.29. Sacramento, CA. Accessed 4 January, 2025.
- CDFW. 2023a. Crotch's Bumble Bee (*Bombus crotchii*) Current and Historic Species Ranges. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213184&inline>.
- CDFW. 2023b. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. California Department of Fish and Wildlife. June 6, 2023. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>
- CDFW. 2025. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed January 4, 2025.
- Cypher, B.L., S.E. Phillips, and P.A. Kelly. 2013. Quantity and distribution of suitable habitat for endangered San Joaquin kit foxes: conservation implications. *Canid Biology & Conservation* 16(7): 25-31.
- Goulson, D. 2010. *Bumblebees: behaviour, ecology, and conservation*. Second Edition. Oxford University Press, New York, New York, USA.
- Hatfield, R., S. Jepsen, R. Thorp, L. Richardson, S. Colla, and S. Foltz Jordan. 2015. *Bombus occidentalis*. The IUCN Red List of Threatened Species 2015: e.T44937492A46440201, [cited 2025 Jan 4]. Available from: <http://dx.doi.org/10.2305/IUCN.UK.2015-2.RLTS.T44937492A46440201.en>
- Kelsey, R. (2008). Results of the tricolored blackbird 2008 census. *Report submitted to US Fish and Wildlife Service, Portland, OR, USA*.

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Lewis, S. E. 1994. Night roosting ecology of pallid bats (*Antrozous pallidus*) in Oregon. *The American Midland Naturalist*, Vol. 132, pp. 219-226.

Meese, R. J., E. C. Beedy, and W. J. Hamilton, III. 2014. Tricolored blackbird (*Agelaius tricolor*), *The Birds of North America* (P. G. Rodewald, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the Birds of North America.

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley of California. Swainson's Hawk Technical Advisory Committee. May 31, 2000.

Thomson, R. C., A. N. Wright, and H. B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife and University of California Press.

United States Fish and Wildlife Service (USFWS). 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. United States Fish and Wildlife Service. January 2011.

Weintraub, K., George, T. L., & Dinsmore, S. J. (2016). Nest survival of tricolored blackbirds in California's Central Valley. *The Condor: Ornithological Applications*, 118(4), 850-861.

Williams, P. H., R. W. Thorp, L. L. Richardson, and S. R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey. 208pp.

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: Main Intake Canal Siphons Project
STATE CLEARINGHOUSE No.: 2025010509**

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>Before Project Activity</i>	
Recommended Mitigation Measure 1: SJKF Surveys and Minimization	
Recommended Mitigation Measure 2: SJKF Take Authorization	
Recommended Mitigation Measure 3: SWHA Surveys and Avoidance Buffers	
Recommended Mitigation Measure 4: SWHA Take Authorization	
Recommended Mitigation Measure 5: TRBL Surveys	
Recommended Mitigation Measure 7: TRBL Take Authorization	
Recommended Mitigation Measure 8: BUOW Surveys Prior to Construction	
Recommended Mitigation Measure 10: BUOW Take Authorization	
Recommended Mitigation Measure 11: CBB Surveys Prior to Construction	
Recommended Mitigation Measure 13: CBB Take Authorization	
Recommended Mitigation Measure 14: WESP Surveys and Avoidance	
Recommended Mitigation Measure 15: NLL Surveys and Avoidance	
Recommended Mitigation Measure 16: Bat Roost Habitat Assessment	
Recommended Mitigation Measure 17: Bat Roost Surveys	
Recommended Mitigation Measure 20: Listed Plant Species Take Authorization	

RECOMMENDED MITIGATION MEASURES	STATUS/DATE/INITIALS
<i>During Construction</i>	
Recommended Mitigation Measure 6: TRBL Colony Avoidance	
Recommended Mitigation Measure 9: BUOW Buffer	
Recommended Mitigation Measure 12: CBB Avoidance Buffer	
Recommended Mitigation Measure 18: Bat Roost Disturbance Minimization and Avoidance	
Recommended Mitigation Measure 19: Special-Status Plant Avoidance	